

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

April 26, 2012

- I. **CALL TO ORDER** – The meeting was called to order at 1:32 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Eunice Beatty; Will Berkley; Carla Blanton; Marie Copeland; Mike Cravens; Mike Owens, Chair; Frank Penn; Lynn Roche-Phillips; and William Wilson. Absent was Patrick Brewer.

Planning staff members present: Dr. Derek Paulsen, Commissioner of Planning, Preservation & Development; Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Cheryl Gallt; and Stephanie Cunningham. Other staff members present were Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire and Emergency Services; Jeff Neal, Division of Traffic Engineering; Hillard Newman, Division of Engineering; and Tim Queary, Urban Forester.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Wilson, seconded by Mr. Penn, and carried 9-0 (Brewer absent) to approve the minutes of the February 23, March 8, and March 22, 2012, Planning Commission meetings.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **LEXINGTON TROTS BREEDERS ASSOCIATION, LLC, ZONING MAP AMENDMENT & RED MILE MIXED-USE DEVELOPMENT (AMD.) ZONING DEVELOPMENT PLAN**

- a. MAR 2012-4: LEXINGTON TROTS BREEDERS ASSOCIATION, LLC (4/28/12)* - petition for a zone map amendment from a Wholesale & Warehouse Business (B-4) zone to a Mixed-Use Community (MU-3) zone, for 2.12 net (3.39 gross) acres, for property located at 1200 Red Mile Road (a portion of); and 439, 441, 445, 451, 455, 459, 461, 463 and 471 Nelms Avenue.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 5) recommends Commercial Residential Mixed Use (MU) land use for the parcels on the northeast side of Nelms Avenue, and Greenspace/Open Space (GS) on its southwest side. The properties were included in the study area of the Red Mile Development Plan, which was formulated for the Red Mile property during the spring and summer of 2009, and was accepted by the Planning Commission. This Plan was consciously substituted for a Small Area Plan for the property. The petitioner proposes MU-3 zoning, to be incorporated into the larger MU-3 zoning on the Red Mile property, for a mixed-use entertainment project. The preliminary development plan proposes a townhouse residential development with 34 dwelling units.

The Zoning Committee Recommended: **Postponement**, for the reason provided by staff.

The Staff Recommends: **Postponement**, for the following reason:

1. The current request does not meet the Greenspace/Open Space recommendation of the 2007 Comprehensive Plan and the Red Mile Development Plan for more than one-half of the subject property. The applicant's proposal appears to be contrary to the historical land use recommendations involving the subject property.
- b. ZDP 2012-13: RED MILE MIXED-USE DEVELOPMENT (AMD.) (4/28/12)* - located at 439 - 471 Nelms Avenue and a portion of 1200 Red Mile Road. **(Vision Engineering)**

Note: The purpose of this amendment is to add 34 townhouses along Red Mile Road.

The Subdivision Committee Recommended: **Postponement**. There are inconsistencies with an open space area in the Red Mile Study, and this plan.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property MU-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of treatment of greenways and greenspace.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.

* - Denotes date by which Commission must either approve or disapprove request.

9. Addition of pedestrian connections to public sidewalk system.
10. Denote number of bedrooms in site statistics.
11. Discuss need for private open space (decks/balconies).
12. Discuss front/rear orientation of units to Red Mile Road.
13. Discuss orientation of Units 26-34 to Nelms Avenue.
14. Discuss the need for sidewalks and widening on Nelms Avenue.

Petitioner Representation: Chris Westover, attorney, was present representing the petitioner. She requested a one-month postponement of this item.

Action: A motion was made by Mr. Penn, seconded by Mr. Cravens, and carried 9-0 (Brewer absent) to postpone MAR 2012-4 to the May 24, 2012, Planning Commission meeting.

2. DP 2012-23: GEORGE WEST ESTATE PROP. (HOWARD PROP.)(AMD) (7/26/12)* - located at 4538, 4568 & 4578 Georgetown Road. (Council District 12) **(Vision Engineering)**

Note: The purpose of this amendment is to revise the building and parking configuration.

The Subdivision Committee Recommended: **Postponement.** There are questions about the relocation proposed for the site's sewage septic field, and the possible subdivision of the property.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Health Department's approval of septic system.
9. Correct plan title and A-R/B-3 zoning boundary.
10. Denote construction access location.
11. Denote building heights.
12. Addition of floodplain information and 25' floodplain setback.
13. Addition of 20' (B-3) building line.
14. Relocate C-store and canopy in B-3 zone per the Board of Adjustment's conditional use permit approval in 2005.
15. Addition of tree preservation information from previous development plan.
16. Addition of topographical information.
17. Denote grease trap approval by the Division of Water Quality (sanitary sewer).
18. Review by Technical Committee prior to plan certification.
19. Discuss consolidation information and number of lots proposed.
20. Discuss stormwater detention for the development.
21. Discuss proposed septic field location and possible conflict with floodplain.

Staff Comment: Mr. Martin stated that the petitioner had requested a two-week postponement of this item. Mr. Sallee added that the date of that meeting would be May 10th, and that the staff had communicated with the petitioner, who indicated that they were agreeable with that date.

Action: A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 9-0 (Brewer absent) to postpone DP 2012-23 to the May 10, 2012, Planning Commission meeting.

- IV. **ZONING ITEMS** - The Zoning Committee met on Thursday, April 5, 2012, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Mike Cravens, and Bill Wilson. The Committee reviewed applications, but did not make recommendations on zoning items due to the lack of a quorum.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

* - Denotes date by which Commission must either approve or disapprove request.

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. SABLE HOLDINGS, LLC, ZONING MAP AMENDMENT & ALLENDALE SUBDIVISION, BLOCK A, LOT 18, ZONING DEVELOPMENT PLAN

- a. MAR 2012-7: SABLE HOLDINGS, LLC (6/2/12)* - petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.225 net (0.273 gross) acre, for property located at 763 Lane Allen Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends Retail, Trade and Personal Services (RT) future land use for the subject property. The petitioner proposes a B-1 zone in order to re-use the building for a retail sales establishment or other similar business use, along with off-street parking.

The Zoning Committee made no recommendation, due to lack of a quorum.

The Staff Recommends: **Approval** for the following reason:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2007 Comprehensive Plan's recommendation for Retail, Trade and Personal Services (RT) future land use for the subject property.
 2. This recommendation is made subject to approval and certification of ZDP 2012-21: Allendale Subdivision, Block A, Lot 18 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2012-21: ALLENDALE SUBDIVISION, BLOCK A, LOT 18 (6/2/12)* - located at 763 Lane Allen.
(2020 Land Surveying)

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Correct note #1.
10. Correct plan title.
11. Addition of developer's information.
12. Denote subject property plat information.
13. Addition of all existing easements.
14. Discuss zone-to-zone screening details.
15. Discuss possible need for detention at rear of property.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property on Lane Allen Road. She said that Lane Allen Road connects to Harrodsburg Road to the southeast of the subject property. The subject property is bordered on its east and west sides by B-1 zoning, with B-6P zoning across Lane Allen Road on the former Turfland Mall property, which is now occupied by the Home Depot. Along Har-

* - Denotes date by which Commission must either approve or disapprove request.

rodsburg Road in this vicinity, most of the properties are zoned either B-1 or B-6P, as are all but one of the parcels on Lane Allen Road between the subject property and the Lane Allen/Garden Springs Drive intersection. To the rear of the subject property, all of the properties on Allendale Drive are zoned R-1C. Ms. Wade said that the subject property has an existing but vacant duplex on it. She displayed several photographs of the subject property and the immediate vicinity.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Retail Trade & Personal Services land use for the subject property, the surrounding parcels on Lane Allen Road, and the Turfland Mall property. Therefore, the proposed B-1 zone is in agreement with the recommendation of the Comprehensive Plan. Ms. Wade said that the staff noted in their report that, given the configuration of the subject property and its small size, the use of the property could be limited in the future, particularly with regard to office or restaurant uses. The staff does believe, however, that the site could possibly accommodate a larger building and/or more parking, if improvements were reconfigured. Ms. Wade stated that the Zoning Committee recommended approval of this request. The staff recommended approval of this zoning change.

Commission Question: Ms. Roche-Phillips asked how the parcels located between the subject property and Harrodsburg Road are zoned. Ms. Wade answered that all of those properties are zoned B-1 or P-1. Ms. Roche-Phillips said that it appears that the subject property and a nearby parcel are the only residential properties in that vicinity. Ms. Wade responded that that is correct, and noted that both of those properties are currently occupied by non-conforming duplexes.

Development Plan Presentation: Mr. Martin presented the corollary final development plan, using a rendered copy of the plan, which depicts the existing duplex on the property. He said that the first floor is just over 1,800 square feet in size, and the basement is approximately 1,700 square feet. The petitioner is not proposing any physical changes to the building, but is proposing to construct eight parking spaces to the rear of the building, with one handicap space. The original plan depicted the handicap space closer to the rear of the property, but the petitioner relocated it at the request of the Divisions of Traffic Engineering and Building Inspection, in order to be ADA compliant.

Mr. Martin said that, with this revised plan submission, the petitioner has addressed two of the conditions that were originally listed as discussion items. The plan now includes an area for stormwater detention, should it be necessary, located at the lowest point of the property. Mr. Martin explained that, until improvement plans and grading permits have been submitted, the petitioner will not be able to determine if that detention will be necessary. He added that the staff was also concerned about screening along the rear property boundary abutting the residential uses on Allendale Drive, and they recommended a condition that would require enhancement of the Article 18 buffer requirements. Only two trees would normally be required in that area, as the distance is only 68 feet, along with a fence or hedge. Mr. Martin noted that the petitioner is proposing to plant 11 trees along the rear property boundary, which would be an improvement over the basic Article 18 requirements. He said that the Subdivision Committee recommended approval of this plan, subject to the first 13 conditions as listed on the agenda; conditions 14 and 15 could now be deleted.

Commission Questions: Mr. Owens asked if this plan was filed as a final development plan. Mr. Martin answered that the petitioner did choose to file it as a final development plan, since very few physical changes to the property are proposed.

Mr. Penn asked if the staff is recommending additional screening at the rear of the subject property due to the grade change between it and the properties along Allendale Drive. Mr. Martin responded that the staff is recommending enhanced screening due to that grade change and the residential nature of the properties on Allendale.

Ms. Roche-Phillips asked why the petitioner does not know if stormwater detention will be required on the subject property. Mr. Martin answered that, on lots of less than one acre in size, the Division of Engineering does not automatically require detention, as they review those development plans on a case-by-case basis. He explained that Engineering would make a determination once the appropriate drainage study is completed. Mr. Martin also noted that, in some situations where a property is near a creek, the Engineering staff determines that stormwater should be moved quickly toward the creek, while in others they opt to require that the rate of flow be controlled. Those determinations are based on flow calculations. Ms. Roche-Phillips asked if that determination could not be made at this time because the petitioner is unsure how much parking will be required for the subject property. Mr. Martin responded that that determination is normally done at the improvement plan stage, and that this plan depicts the location of a detention basin, should it be required. Ms. Roche-Phillips asked if the area proposed for detention would contain the volume. She said that she believes that it is important to have these issues resolved early in the process, since this is a final development plan. Mr. Martin responded that Article 21 requires that detention areas be depicted on site plans, but volume calculations are not necessary at this point in the development process.

Ms. Blanton stated that there had been some discussion at the Zoning Committee meeting about the possibility of connecting the subject property to a drainage pipe that currently exists in the area. Mr. Martin replied that the petitioner had mentioned that possibility, but the staff has not seen any data to support it.

Staff Comment: Ms. Wade said that she had indicated in her presentation that the Zoning Committee recommended approval of this item; however, they were unable to make a recommendation, as they had no quorum at that meeting.

Petitioner Representation: Justin Drury, 2020 Land Surveying, was present on behalf of the petitioner. He stated that the petitioner is in agreement with the staff's recommendations, and that the petitioner had made changes to the development plan to address the two discussion items.

Commission Questions: Ms. Copeland asked, with regard to the required zone-to-zone screening, if the Urban Forester had reviewed the trees along the rear property boundary. Mr. Queary answered that he had visited the site. Ms. Copeland asked if there are any significant trees on the property. Mr. Queary responded that most of the trees are "volunteers." He added that the petitioner will be able to fulfill the canopy requirements through their tree plantings. Ms. Copeland stated that she did not believe that it would be appropriate to require a fence along the rear property boundary. Since the subject property lines do not "match up" with the boundaries of the properties along Allendale, it could result in several different fence heights, which could look unattractive. Ms. Copeland said that she believes that a hedge, such as a burning bush, would provide a much more attractive means of meeting the zone-to-zone screening requirement. She asked if Mr. Queary would be agreeable with the provision of a hedge, rather than a fence. Mr. Queary answered that the Division of Building Inspection would provide that sign-off on the plan. The petitioner would need to work with them to meet the requirements of Article 18. Ms. Copeland asked if it would be appropriate for the Commission to request a hedge of deciduous material, of no more than six feet in height, along the rear property line. Mr. Martin responded that the Commission could place such a requirement on the development plan. He explained that, in this case, Article 18 requires one tree per every 40 feet, and allows a double row of a six-foot hedge to meet the remaining requirements. The Commission could require the substitution of a taller hedge, if they so chose. Mr. Martin added that the trees must be selected from either Group A or Group B of the Planting Manual. Ms. Copeland said that she believes that zone-to-zone screening is necessary in this case, but it is not fair to the property owners on Allendale Drive to require the petitioner to construct a fence that might not match their fences. Mr. Martin answered that such a condition would be acceptable to the staff, provided that the petitioner is agreeable. Mr. Sallee suggested that, rather than deleting condition #14, the Commission could modify it to read: "Zone-to-zone screening detail shall include a hedge." Mr. Drury indicated that the petitioner is agreeable to such a change.

Zoning Action: A motion was made by Ms. Copeland, seconded by Mr. Berkley, and carried 9-0 (Brewer absent) to approve MAR 2012-7, for the reasons provided by staff.

Development Plan Action: A motion was made by Ms. Copeland, seconded by Mr. Berkley, and carried 9-0 (Brewer absent) to approve ZDP 2012-21, changing condition #14 offered by the staff, and deleting condition #15.

- V. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 5, 2012, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Eunice Beatty, Mike Owens and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Jimmy Emmons, Traci Wade, Barbara Rackers, Dave Jarman and Jim Duncan, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
- (2) the Petitioner agrees with the Subdivision Committee recommendation and conditions listed on the agenda, and
- (3) no discussion of the item is desired by the Commission, and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion, and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)

* - Denotes date by which Commission must either approve or disapprove request.

- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce its decision at the outset of the hearing.

A. DEVELOPMENT PLANS

1. DP 2012-4: BAPTIST HEALTHCARE SYSTEM (CENTRAL BAPTIST HOSPITAL) (AMD) (4/26/12)* - located at 1740 Nicholasville Road. (Council District 4) **(HDR)**

Note: This plan was postponed at the Commission's February 9 and February 23, 2012, meetings, and continued at its March 22, 2012, meeting. The purpose of this amendment is for an addition to the emergency room and to provide a canopy and pull-through drive lane for emergency medical response vehicles.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Division of Fire's approval of emergency access, fire hydrant locations, and fire gate information (agreement).
8. Division of Waste Management's approval of refuse collection.
9. Correct numbering of general notes.
10. Denote compliance with Article 18-3 of the Zoning Ordinance.
11. Resolve exterior lighting spillage with applicable requirements.

Chairman Comments: Mr. Owens stated, as a reminder, that this item was continued from the March 22nd meeting, and that comments were closed at that time. He said that the staff is prepared to provide a summary of the new information received since that last meeting; then, the applicant will respond; lastly, one representative from the neighborhood will be allowed to address the new information. Mr. Owens added that minutes of the previous discussion concerning this item had been distributed to the Commission members for their reference.

***Note:** Mr. Berkley announced that, due to a conflict of interest, he must recuse himself from the discussion of this item. He left the meeting at that time.*

Staff Presentation: Mr. Sallee stated that he had distributed to the Commission members the petition submitted by the Southern Heights Neighborhood Association, with 218 signatures in opposition to this plan. He also entered into the record of the meeting all of the staff's email records that reference this plan, separated by month.

Mr. Martin displayed an aerial photograph of the subject property and surrounding area, noting the location of the University of Kentucky Greg Page apartments; the Lexington-Fayette County arboretum; and the adjoining neighborhood. Displaying a rendered copy of the plan, he stated that this proposed amendment to the development plan involves the Hiltonia Park frontage. The petitioner is proposing to add 745 square feet to the hospital's emergency room, and make some changes to the emergency vehicle canopy and drive aisle.

Mr. Martin stated that the staff had received new information from the petitioner. He displayed a copy of the petitioner's revised plan, noting that the revisions center on the emergency room. The petitioner is proposing to add trees, in addition to a six-foot hedge, for the required vehicular use area screening, in response to the neighbors' concerns about a lack of adequate screening for that area. With regard to the many concerns about traffic issues expressed by the neighbors at the March 22nd meeting, Mr. Martin stated that the petitioner, the petitioner's engineer, the staff, and representatives from the University of Kentucky had met to discuss those concerns. He said that, at that meeting, the possibility of a rear access to the Central Baptist property was one of the topics of discussion. The petitioner has since indicated that they intend to begin a traffic study, in order to begin work toward addressing those issues.

Mr. Martin said that, at the March 22nd meeting, the staff had distributed a revised recommendation on this plan. That recommendation has not changed, but new copies were distributed to the Commission members for reference. Mr. Martin

* - Denotes date by which Commission must either approve or disapprove request.

stated that most of the conditions for approval are standard. Condition #10 would require that the petitioner denote compliance with the Article 18 requirements for screening. The staff believes that the number of trees currently depicted on the plan would be the minimum needed to meet those requirements. With regard to condition #11, Mr. Martin said that the Commission members had received an exhibit from the petitioner at the last meeting indicating the petitioner's intent to address the lighting concerns. Condition #12 would require the addition of landscape details along the southern property line from the 23rd amended development plan. That plan depicted the southern boundary landscaping in much greater detail, but sometimes information can "fall off" of a plan over the course of several amendments. Mr. Martin concluded by noting that the staff is recommending approval of this plan, subject to the conditions as listed in the revised recommendation.

Commission Questions: Mr. Penn asked if the proposed additional trees and/or screening on the southern side of the subject property would interfere with the driveway width or sight triangle at the Hiltonia Park/McDonald Avenue entrance. Mr. Martin answered that the new landscaping would not interfere with the driveway width, but the petitioner would have to closely monitor the sight triangle and visibility at that access point, to ensure that it is safe.

Ms. Copeland stated that the boundary with Mark Yanik's property is not depicted on this version of the development plan, and asked why. Mr. Martin answered that that property boundary is not proposed to be changed; this version of the development plan includes only the changes proposed since the March 22nd Planning Commission meeting.

Petitioner Presentation: Nick Nicholson, attorney, was present representing the petitioner. He distributed to the Commission members an exhibit detailing the efforts the petitioner has undertaken since the March 22nd meeting to address the neighbors' concerns. With regard to Ms. Copeland's question about the boundary with Mr. Yanik's property, Mr. Nicholson noted that the petitioner has already replaced the three trees that were inadvertently removed by Kentucky Utilities. The new trees are 15' in height, and meet the screening requirements of Article 18. Mr. Nicholson said that the petitioner has planted 20 new trees and 16 shrubs along the southern property line adjoining Hiltonia Park. The petitioner intends to increase the height of the shrubs to six feet, which should improve the screening of the parking area from street level on Hiltonia. To address the neighbors' concerns about light spillover, the petitioner has shielded all of the pole lights in the emergency department parking lots. With regard to concerns about noise pollution, the petitioner has commissioned a mechanical noise study to reduce noise pollution from the exhaust systems.

Mr. Nicholson said, with regard to the neighbors' concerns about traffic in the vicinity of the subject property, that the petitioner has participated in a series of meetings with LFUCG and the University of Kentucky about the possibility of creating a rear entrance to the subject property. In addition, Dr. Derek Paulsen, Commissioner of Planning, has been conducting meetings with UK as well. The petitioner has agreed to assume the cost of a traffic study as part of that process. Mr. Nicholson noted that, with Mayor Gray, Dr. Paulsen, and Dr. Capilouto at UK all being relatively new in their roles, a fresh start can be made toward creating the new rear entrance, which would be beneficial for many reasons. The petitioner has also done significant work with the Division of Traffic Engineering to determine if any traffic calming measures can be put in place to reduce the traffic concerns in the Southern Heights neighborhood near the subject property. One of the suggested solutions would be to install a three-way stop at the intersection of Hiltonia Park, McDonald Avenue, and the emergency room access point on the subject property. The petitioner has also been in discussions with the Southern Heights neighborhood association about replacing the landscaping on the Hiltonia Park median, for which the petitioner has already accepted responsibility.

Mr. Nicholson stated that the petitioner has put a great deal of effort in the past five weeks into resolving as many of the neighbors' concerns as possible, in order to maintain the relationship with them that the hospital has been cultivating for the past 25 years. He said that the purpose of this amendment to the development plan is to make it more safe and efficient for the hospital's patients to access their emergency room, not to increase the number of patients or the services offered. The petitioner contends that, over the course of these meetings, no evidence has been introduced that demonstrates that the proposed increase in square footage and/or canopy modifications would have a negative impact on the public health, safety, or welfare. Based on its compliance with Zoning Ordinance regulations, and the staff's recommendation of approval, the petitioner believes that this proposed plan amendment should be approved.

Mr. Nicholson stated that every element of the design of the hospital campus, including the large construction project that is currently underway, was approved by the Planning Commission. In September of 2011, the Commission approved a major amendment to the development plan, which included the addition of a large amount of square footage and the revision of the internal circulation pattern. There were no citizens present at that meeting to object to the amendment to the development plan. Mr. Nicholson said that, at that time, the petitioner worked extensively with the staff and the Division of Traffic Engineering to determine the best solution for the subject property. The petitioner believes that the completion of that ongoing construction project will help to remove some of the areas of concern for the neighbors, including that of large truck traffic through the residential area. As part of that project, the petitioner has constructed a new loading bay on the north end of the subject property. The petitioner does not believe that truck drivers will want to "wind their way" through the entire hospital campus internal circulation pattern to reach the loading area after entering via the residential area to the south.

* - Denotes date by which Commission must either approve or disapprove request.

Mr. Nicholson said that, at the Commission's March 22nd meeting, it seemed that the neighbors' main concerns were all traffic-related. He stated that Mr. Neal had reported that between 40,000 and 45,000 cars use that section of Nicholasville Road each day, which would be the case with or without Central Baptist Hospital. The petitioner contends that the traffic flow, and the impact it has on the neighborhoods adjacent to Nicholasville Road, are not germane to the request before the Commission; in fact, they are beyond the scope of this amendment and the purview of the Commission at this level. Those issues also do not bring this amendment to the petitioner's development plan into non-compliance with the Zoning Ordinance. Mr. Nicholson said that community-wide transportation issues such as these would be more appropriately addressed as part of the update of the Comprehensive Plan. The petitioner believes that it is inappropriate to "hold hostage" this proposed 745 square-foot addition to the hospital based on traffic concerns, since, regardless of whether this amendment is approved or disapproved, that traffic situation will not change. If the Commission chooses to disapprove this request, the petitioner contends that they could have a basis on which to pursue legal action, since that decision appears to be completely arbitrary. Mr. Nicholson concluded that disapproving this request would also deprive the petitioner of enhanced opportunities to treat its patients, to their detriment, without sufficient justification in the record.

Commission Question: Mr. Wilson asked when the mechanical noise studies will be completed. Mr. Nicholson answered that that study should be completed within the next three weeks. Mr. Wilson asked when the University Drive feasibility study would be completed. Skip Alexander, Central Baptist Hospital, answered that the traffic study is currently underway. He explained that the petitioner wanted to complete the study while UK students are still on campus, in order to get an accurate picture of the traffic situation. Mr. Nicholson added that the results of that study would be turned over to staff from Traffic Engineering and UK.

Chairman Comment: Mr. Owens stated that, at this time, a representative from the adjoining neighborhood could make a brief presentation. He reminded the neighbors that Mr. Martin's presentation lasted for about eight minutes, and Mr. Nicholson's about 12 minutes, so their representative would need to keep his remarks within that time frame. Mr. Owens added that the neighbors' representative should also confine his remarks to the new material presented at this meeting.

Neighborhood Presentation: Stuart Wester, 122 Hiltonia Park, began his presentation by thanking the petitioner for planting new trees along Mark Yanik's property line to replace those that were removed by Kentucky Utilities. He distributed an exhibit to the Commission members.

Mr. Wester stated that, during the March 22nd meeting, Mr. Penn stated that all of the parties involved with the issues surrounding this development plan needed to have a discussion about how best to resolve them. He said that the petitioner has not replied to any of the neighbors' requests for a meeting, and the neighbors have not been involved in any discussions about the proposed changes to the development plan. Although they were not involved in the process, Mr. Wester said that he and his neighbors appreciate the effort the petitioner has put into addressing their concerns thus far.

Mr. Wester stated, with regard to Mr. Nicholson's comments about the lack of neighborhood response when the plan amendment that included the hospital's major construction project was discussed last September, that he and his neighbors were not made aware of that plan amendment by the petitioner or their neighborhood officers. He added that they would not have known about this proposed amendment to the plan if the trees along Mr. Yanik's property line had not been removed. Mr. Wester stated that he believes that a note should be added the Central Baptist development plan to require that Hiltonia Park and McDonald Avenue be notified of any proposed amendment to the plan.

Referring to his exhibit, Mr. Wester stated that the traffic studies done in the vicinity of the subject property indicated that there was a 50% increase in traffic in the area between 2007 and 2011. He said that the Traffic Engineering staff had informed him that a local street can typically carry 4,000 trips per day. The traffic study projects that, by 2015, the streets around the subject property will be carrying 4,000 trips per day; however, the neighbors contend that those should not be considered local streets, as they are actually more like rural cross-sections. The neighbors believe that the Planning Commission has the right and the responsibility to fix existing problems, and the traffic in the vicinity is an existing problem for area residents. Mr. Wester stated that he had recently been made aware that a bike trail is proposed along either Bellefonte Drive or Shady Lane, to eventually connect to existing trails in the arboretum. He said that constructing such a trail on local streets that are already too narrow to adequately accommodate the existing traffic, then adding bicycle traffic, could create a dangerous situation. The residents believe that the Planning Commission has the ability to completely resolve these problems now, rather than waiting for them to come up again. Their solution, as depicted on their proposed plan for the subject property, would require the installation of a gate to restrict the Hiltonia Park/McDonald Avenue access to the subject property to allow only vehicles traveling to or from the emergency room. Mr. Wester said that he and his neighbors understand that construction traffic needs to use the rear entrances to the hospital as long as the construction process is ongoing, but they believe that the Hiltonia Park/McDonald Avenue access should be restricted once that project is complete. He suggested that the Planning Commission add a condition to this development plan under Article 21 to block that access, and allow the petitioner and the neighborhood to determine when that restricted access will take effect. Mr. Wester said that doing so would improve the safety of the neighborhood and the proposed bike trail, with little or no negative impact on the petitioner.

Commission Questions: Ms. Copeland asked if the petitioner intends to allow the proposed bike trail to extend through their property. Mr. Wester answered that the trail is proposed through the Shady Lane area to the arboretum. Ms. Cope-

* - Denotes date by which Commission must either approve or disapprove request.

land said that the trail will serve mostly the University of Kentucky, so it is in their best interest to ensure that it can extend safely through the Shady Lane neighborhood.

Petitioner Rebuttal: Mr. Nicholson stated, with regard to the neighbors' suggestion to install a gate in the hospital's parking area to restrict access to the Hiltonia Park/McDonald Avenue access, that hospitals typically do not use gates in their parking lots. He explained that, if a driver enters the property at the main entrance with a passenger who is in dire need of the emergency room, it can create a dangerous situation, including possible backups of cars trying to reach the ER. The petitioner understands that the residents believe that such a gate would resolve all of the traffic issues in their neighborhood by restricting the number of cars exiting the subject property onto Hiltonia Park and McDonald Avenue, but it could compromise the safety of the hospital's patients.

Commission Questions: Mr. Penn asked if the petitioner would be willing to gate a possible access point to University Drive for use by physicians and employees. Mr. Nicholson answered that the petitioner would be willing to do so, as that gate would not restrict traffic flow internally on the property.

Citizen Rebuttal: Mr. Wester stated that the gate, as depicted on the neighbors' proposed plan, would not affect internal circulation on the property; rather, it would restrict traffic attempting to exit via the Hiltonia Park/McDonald Avenue access point.

Staff Rebuttal: Mr. Martin stated that the staff had no rebuttal comments, but they would like to recommend the addition of a new condition #13 to read: "Notification of Southern Heights Neighborhood Association on any future plan amendments."

Chairman Comment: Mr. Owens stated that this hearing was now closed.

Commission Discussion: Ms. Beatty asked if the Southern Heights Neighborhood Association was notified of the filing of this development plan, as there appears to be some conflicting information. Mr. Nicholson answered that there is an existing note on the development plan to contact certain neighborhood associations; however, the Southern Heights NA is new, and was not included in that note. The need to notify them in the future is the basis for Mr. Martin's recommended condition #13.

Ms. Roche-Phillips asked if a gate to control internal circulation would be considered an "illegal exaction" if the Planning Commission imposed it on the petitioner. Ms. Boland responded that requiring a gate would totally depend on the circumstances of the applicant's request. She explained that any change that the Planning Commission requests to this plan must be something that is required by what is being requested. The Planning Commission would have to be able to justify that the addition of 750 square feet of space in the emergency room waiting room, and the alteration to the canopy to allow access by emergency vehicles, requires that a gate be added to mitigate the impact of those improvements. Ms. Boland noted that a gate cannot be requested to control a portion of the plan that has already been approved, unless the petitioner requests a change to that. She added that there must be shown to be a relationship between what is being requested and what the Commission is requesting of the petitioner.

Mr. Penn stated that he believes that a great deal was accomplished on this plan since the Commission postponed it at their March 22nd meeting. He commended the petitioner and the neighborhood for their input in the process.

Action: A motion was made by Mr. Penn, seconded by Mr. Wilson, and carried 8-0 (Berkley recused and Brewer absent) to approve DP 2012-4; adding language to condition #10 to require that trees be added; and adding a new condition #13 as recommended by staff.

2. DP 2012-16: WALLER PROPERTY (AMD) – located at 1528, 1532 and 1534 North Limestone.
(Council District 1) **(Midwest Engineering, Inc.)**

Note: Under Article 21-7(b)(2) of the Zoning Ordinance, the staff referred this plan to the Commission. At its April 12, 2012, meeting, the Commission voted to continue consideration of this to its April 26, 2012, meeting.

Note: The purpose of this minor amendment is to revise the building layout, change the building orientation along North Limestone Street, and to reduce the floor area.

The Staff Recommended: **Approval**, subject to the following requirements:

1. Urban County Traffic Engineer's approval of street cross-sections and access.
2. Revise the landscaping detail along North Limestone, per conditional zoning restrictions and current Final Development Plan.
3. Addition of building elevations along North Limestone Street, per information provided to the Commission on November 18, 2010.
4. Revise building orientation 90 degrees along North Limestone Street.

* - Denotes date by which Commission must either approve or disapprove request.

Staff Presentation: Mr. Sallee began the staff's presentation by distributing to the Commission members copies of the applicant's rendering of the proposed buildings, as well as the minutes of the applicant's meeting with the North Limestone Neighborhood Association. He noted that this item was continued from the Commission's meeting two weeks ago; at that time, the staff presented it as a minor amended development plan. Since that meeting, the staff has received a revised development plan. One of the staff's recommendations was to change the orientation of one of the buildings to face North Limestone Street; that was accomplished on the revised plan submission. The petitioner is also proposing to change the stormwater detention for the subject property, by using the existing basins. The sanitary sewer line that was depicted on the previous plan as requiring relocation is now proposed to remain in its current location.

Mr. Sallee stated that a revised staff recommendation had been distributed to the Commission members. Referring to that exhibit, he noted that the staff is still recommending that the Urban County Traffic Engineer approve the access and entrance details; condition #2 has been met with the re-orientation of the building; the staff is also recommending the addition of the elevation information prior to the certification of the plan; with regard to condition #4, the staff is recommending that the walkways that are depicted in the architectural rendering be added to the development plan.

Commission Questions: Ms. Copeland stated that the architectural rendering appears to be different from the development plan. Mr. Sallee answered that that observation was correct. He asked that the Commission focus on the North Limestone street frontage on the rendering, and explained that the remainder of the buildings on the property are no longer proposed to be configured as depicted on the rendering. Ms. Copeland asked if any overhead doors are proposed to be oriented toward North Limestone Street. Mr. Sallee responded that there are overhead doors that are proposed to be oriented toward North Limestone, but they would be located approximately 350 feet from the right-of-way, and would be blocked by other buildings.

Petitioner Representation: Andy Holmes, Midwest Engineering, was present representing the petitioner. He stated that the petitioner had met with representatives of the North Limestone Neighborhood Association following the Commission's meeting two weeks ago. At that meeting, the orientation of the buildings was discussed. That meeting helped the petitioner to gain an appreciation for the neighbors' concerns, and the development plan subsequently revised to its current configuration. Mr. Holmes said that the petitioner is in agreement with the staff's recommendations, and he requested approval.

Commission Questions: Mr. Wilson said that, at the meeting two weeks ago, the Commission discussed what types of building materials would be most desirable for the proposed development. Mr. Holmes agreed, and said that the petitioner has agreed to construct the buildings with the same building materials and appearance restrictions that were included on the original and currently certified development plan for the property. Mr. Sallee added, for clarification, that those restrictions are applicable only along the North Limestone Street frontage, and not on the entire property. Mr. Wilson asked if that was how the building materials were addressed on the original plan. Mr. Sallee answered that that was how the plan was certified.

Ms. Copeland asked if condition #4 would require the construction of a walkway separate from the public sidewalk. Mr. Sallee answered that that condition refers to a walkway in close proximity to the buildings, as opposed to the public sidewalk.

Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 8-0 (Berkley and Brewer absent) to approve DP 2012-16, subject to the four conditions as recommended by staff.

VI. COMMISSION ITEMS

- A. PLANNING COMMISSION VACANCY** – Mr. Owens stated that the Urban County Council had requested that the Planning Commission appoint a member to fill the existing vacancy. The Commission members requested a recommendation for a new member from the administration, which has been received and distributed to the members for review. Mr. Owens stated that, should the Commission wish to discuss the proposed candidate, they would need to take the meeting into closed session.

Mr. Wilson stated that he knows the proposed candidate, Carolyn Plumlee, who served as the president of his neighborhood association. He said that he appreciated her calm demeanor and diplomacy as the group tackled several thorny issues, and he believes that Ms. Plumlee would be a good addition to the Commission.

Mr. Penn said that he served with Ms. Plumlee on the Rural Land Management Board for four years, and he believed that she represented the neighborhood associations well, always thinking before she spoke.

Mr. Owens noted that, in addition to the Rural Land Management Board, Ms. Plumlee has also served on the Ethics Commission.

Action: A motion was made by Mr. Wilson, seconded by Ms. Roche-Phillips, and carried 8-0 (Berkley and Brewer absent) to appoint Carolyn Plumlee to serve on the Planning Commission.

VII. STAFF ITEMS – No such items were presented.

* - Denotes date by which Commission must either approve or disapprove request.

VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR MAY, 2012**

| | |
|--|---------------------|
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | May 3, 2012 |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street)..... | May 3, 2012 |
| Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers..... | May 10, 2012 |
| Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers..... | May 17, 2012 |
| Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers..... | May 24, 2012 |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | May 30, 2012 |
| Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers..... | May 31, 2012 |

X. **ADJOURNMENT** – There being no further business, Chairman Owens declared the meeting adjourned at 2:57 p.m.

TLW/TM/CT/BJR/BS/src

* - Denotes date by which Commission must either approve or disapprove request.